

ASSEMBLY BILL

No. 2658

Introduced by Assembly Member Huff

February 24, 2006

An act to amend Sections 7102 and 7113.5 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2658, as introduced, Huff. Contractors.

Under existing law, the Contractors' State Licensing Board may suspend or revoke a contractor's license upon specified grounds, and as a condition of reinstatement, the contractor may be required to fully satisfy any resulting monetary obligation or debt, except if the obligation or debt was adjudicated in a bankruptcy proceeding.

This bill would instead provide that the contractor may not be required to satisfy the monetary obligation or debt to the extent it was discharged in a bankruptcy proceeding.

Existing law makes it a cause for discipline if a contractor avoids or settles an obligation for less than the full amount of the obligation, except if the contractor avoids or settles in bankruptcy, or by composition, arrangement, or reorganization with creditors under federal law for less than the full amount.

This bill would also require the contractor to satisfy that obligation to the extent it is not discharged under federal law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 7102 of the Business and Professions Code is amended to read:

7102. After suspension of ~~the~~ a license upon any of the grounds set forth in this chapter, the registrar may reinstate the license upon proof of compliance by the contractor with all provisions of the decision as to reinstatement or, in the absence of ~~such~~ a decision or any provisions therein as to reinstatement, in the sound discretion of the registrar.

After revocation of a license upon any of the grounds set forth in this chapter, the license shall not be reinstated or reissued and a license shall not be issued to any member of the personnel of the revoked licensee found to have had knowledge of or participated in the acts or omissions constituting grounds for revocation, within a minimum period of one year and a maximum period of five years after the final decision of revocation and then only on proper showing that all loss caused by the act or omission for which the license was revoked has been fully satisfied and that all conditions imposed by the decision of revocation have been complied with.

The board shall promulgate regulations covering the criteria to be considered when extending the minimum one-year period. The criteria shall give due consideration to the appropriateness of the extension of time with respect to the following factors:

- (a) The gravity of the violation.
- (b) The history of previous violations.
- (c) Criminal convictions.

When any loss has been reduced to a monetary obligation or debt, however, the satisfaction of ~~such~~ the monetary obligation or debt as a prerequisite for the issuance, reissuance, or reinstatement of a license shall not be required ~~where such to the extent the~~ monetary obligation or debt ~~has been adjudicated~~ was discharged in a bankruptcy proceeding. However, any nonmonetary condition not ~~adjudicated~~ discharged in a bankruptcy proceeding shall be complied with prior to the issuance, the reissuance, or reinstatement of the license.

SEC. 2. Section 7113.5 of the Business and Professions Code is amended to read:

1 7113.5. The avoidance or settlement by a licensee for less
2 than ~~their~~ *the* full amount of the lawful obligations of ~~such~~ *the*
3 licensee incurred as a contractor, whether by (a) composition,
4 arrangement, or reorganization with creditors under state law,
5 (b) composition, arrangement, or reorganization with creditors
6 under any agreement or understanding, (c) receivership as
7 provided in Chapter 5 (commencing at Section 564) of Title 7 of
8 Part 2 of the Code of Civil Procedure, (d) assignment for the
9 benefit of creditors, (e) trusteeship, or (f) dissolution, constitutes
10 a cause for disciplinary action.

11 This section shall not apply to an individual settlement of the
12 obligation of a licensee by ~~such~~ *the* licensee with a creditor
13 ~~which~~ *that* is not a part of or in connection with a settlement with
14 other creditors of ~~such~~ *the* licensee.

15 No disciplinary action shall be commenced against a licensee
16 for avoiding or settling in bankruptcy, or by composition,
17 arrangement, or reorganization with creditors under federal law,
18 the licensee's lawful obligations incurred as a contractor for less
19 than the full amount of ~~such~~ *the* obligations, *so long as the*
20 *licensee satisfies all of those lawful obligations, to the extent the*
21 *obligations are not discharged under federal law.*